

arises, to submit such claim or grievance to any settlement procedure provided for in the agreement.

[66 FR 42287, Aug. 10, 2001]

PART 170—REGISTERED FUTURES ASSOCIATIONS

Subpart A—Standards Governing Commission Review of Applications for Registration as a Futures Association Under Section 17 of the Act

Sec.

- 170.1 Demonstration of purposes (section 17(b)(1) of the Act).
- 170.2 Membership restrictions (section 17(b)(2) of the Act).
- 170.3 Fair and equitable representation of members (section 17(b)(5) of the Act).
- 170.4 Allocation of dues (section 17(b)(6) of the Act).
- 170.5 Prevention of fraudulent and manipulative practices (section 17(b)(7) of the Act).
- 170.6 Disciplinary proceedings (sections 17(b)(8) and (b)(9) of the Act).
- 170.7 Membership denial (section 17(b)(9) of the Act).
- 170.8 Settlement of customer disputes (section 17(b)(10) of the Act).
- 170.9 General standard.
- 170.10 Proficiency examinations (sections 4p and 17(p) of the Act).

Subpart B—Registration Statement of Futures Associations to be Submitted to the Commission

- 170.11 Form of registration statement; review of registration statement.
- 170.12 Delegation of authority to Director of the Division of Clearing and Intermediary Oversight.

Subpart C—Membership in a Registered Futures Association

- 170.15 Futures commission merchants.

AUTHORITY: 7 U.S.C. 6p, 12a, and 21, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000).

SOURCE: 44 FR 20651, Apr. 6, 1979, unless otherwise noted.

Subpart A—Standards Governing Commission Review of Applications for Registration as a Futures Association Under Section 17 of the Act

§ 170.1 Demonstration of purposes (section 17(b)(1) of the Act).

A futures association must demonstrate that it will be able to carry out the purposes of section 17 of the Act. Since a basic purpose of a futures association is to regulate the practices of its members, an association should demonstrate that it will require its members to adhere to regulatory requirements governing their business practices at least as stringent as those imposed by the Commission. For example, the association should be prepared to establish and maintain in accordance with § 1.52 of this chapter, a financial compliance program for those members of the association who are futures commission merchants.

§ 170.2 Membership restrictions (section 17(b)(2) of the Act).

If it appears to the Commission to be necessary or appropriate in the public interest and to carry out the purposes of section 17 of the Act, a futures association may restrict its membership to individuals registered by the Commission in a particular capacity or to individuals doing business in a particular geographical region or to firms having a particular level of capital assets or which engage in a specified amount of business per year.

[48 FR 35305, Aug. 3, 1983]

§ 170.3 Fair and equitable representation of members (section 17(b)(5) of the Act).

A futures association must assure fair and equitable representation of the views and interests of all association members in the procedures providing for the adoption, amendment or repeal of any association rule, in an association's procedure for the selection of association officers and directors and in

Commodity Futures Trading Commission

§ 170.8

all other phases of the association's affairs and activities, including disciplinary and membership hearings. No single group or class of association members shall dominate or otherwise exercise disproportionate influence on any governing board of an association or on any disciplinary or membership panel of such an association. Non-members of the association shall be represented wherever practicable on any board or hearing panel of the association.

§ 170.4 Allocation of dues (section 17(b)(6) of the Act).

Dues imposed on members of a futures association must be allocated equitably among members and may not be structured in a manner constituting a barrier to entry of any person seeking to engage in commodity-related business activities.

§ 170.5 Prevention of fraudulent and manipulative practices (section 17(b)(7) of the Act).

A futures association must establish and maintain a program for the protection of customers and option customers, including the adoption of rules to protect customers and option customers and customer funds and to promote fair dealing with the public. These rules shall set forth the ethical standards for members of the association in their business dealings with the public. An applicant association must also demonstrate its capability to foster a professional atmosphere among its members, including an acceptance of an adherence to the ethical standards, and to monitor and enforce compliance with the customer and option customer protection program and rules.

(Secs. 2(a)(1), 4c(a)–(d), 4d, 4f, 4g, 4k, 4m, 4n, 8a, 15 and 17, Commodity Exchange Act (7 U.S.C. 2, 4, 6c(a)–(d), 6d, 6f, 6g, 6k, 6m, 6n, 12a, 19 and 21; 5 U.S.C. 552 and 552b))

[47 FR 57020, Dec. 22, 1982]

§ 170.6 Disciplinary proceedings (sections 17(b)(8) and (b)(9) of the Act).

A futures association must provide a fair and orderly procedure with respect to disciplinary actions brought against association members or persons associated with members. These rules governing such disciplinary actions shall

contain, at a minimum, the procedural safeguards contained in section 17(b)(9) of the Act. In addition, an association, in disciplining its members should demonstrate that it will:

(a) Take vigorous action against those who engage in activities in violation of association rules;

(b) Conduct proceedings in a manner consistent with the fundamental elements of due process; and

(c) Impose discipline which is fair and has a reasonable basis in fact.

(Approved by the Office of Management and Budget under control number 3038-0022)

[44 FR 20651, Apr. 6, 1979, as amended at 46 FR 63036, Dec. 30, 1981]

§ 170.7 Membership denial (section 17(b)(9) of the Act).

A futures association must provide a fair and orderly procedure for processing membership applications and for affording any person to be denied membership an opportunity to submit evidence in response to the grounds for denial stated by the association. The procedures governing denials of membership in the association shall contain, at a minimum, the procedural safeguards contained in section 17(b)(9) of the Act.

(Approved by the Office of Management and Budget under control number 3038-0022)

[44 FR 20651, Apr. 6, 1979, as amended at 46 FR 63036, Dec. 30, 1981]

§ 170.8 Settlement of customer disputes (section 17(b)(10) of the Act).

A futures association must be able to demonstrate its capacity to promulgate rules and to conduct proceedings that provide a fair, equitable and expeditious procedure, through arbitration or otherwise, for the voluntary settlement of a customer's claim or grievance brought against any member of the association or any employee of a member of the association. Such rules shall conform to and be consistent with section 17(b)(10) of the Act and be consistent with the guidelines and acceptable practices for dispute resolution found within Appendix A and Appendix B to Part 38 of this chapter.

[66 FR 42288, Aug. 10, 2001]

§ 170.9 General standard.

An applicant seeking registration as a futures association by the Commission must demonstrate the association's ability to comply with standards and requirements set forth in this part. The applicant must also demonstrate its ability to satisfy the provisions of section 17 of the Act as well as other applicable legal considerations, including that the association will promote fair and open competition among its members and will conduct its affairs consistent with the public interest to be protected by the antitrust laws. The Commission shall not register an applicant association unless the Commission finds that the applicant has satisfied the conditions and requirements of section 17 of the Act and of this part and that registration will be in the public interest.

§ 170.10 Proficiency examinations (sections 4p and 17(p) of the Act).

A futures association may prescribe different training standards and proficiency examinations for persons registered in more than one capacity: *Provided*, That nothing contained in the Act or these regulations, including any exemption from registration for persons registered in another capacity, shall be deemed to preclude the establishment of training standards and a proficiency examination requirement for functions performed in such other capacity.

[48 FR 35305, Aug. 3, 1983]

Subpart B—Registration Statement of Futures Associations to be Submitted to the Commission

§ 170.11 Form of registration statement; review of registration statement.

(a) Any association seeking registration by the Commission as a futures association must file with the Commission a letter requesting that the association be registered by the Commission as a futures association and accompany the letter with the following: (1) The constitution, charter or articles of incorporation of the association, (2) the bylaws of the association, (3) any

other rules, resolutions or regulations of the association corresponding to the foregoing, (4) a detailed description of the association's organization, membership and rules of procedure and (5) a detailed statement of the association's capability to comply with the provisions of section 17 of the Act and this part. This letter and the accompanying information shall be considered as the registration statement of the association. This letter and the accompanying information shall be filed with the Secretariat of the Commission at Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

(b) At any time after an applicant's registration statement has been filed, the applicant association shall submit to the Commission any supporting or additional information concerning the application of the association as the Commission may request.

(c) If it appears to the Commission, after reviewing any registration statement filed by an applicant association, that the applicant has not satisfied the requirements for registration set forth in section 17 of the Act or of this part, the Commission may, in its discretion, notify the applicant in writing to that effect. Such notice shall specify those requirements of section 17 or of this part which do not appear to have been satisfied and shall afford the applicant a period of at least 60 days in which to respond to the Commission's notice by demonstrating or achieving compliance with the requirements specified by the Commission or otherwise. An applicant may withdraw its registration statement from Commission consideration at any time within such 60 day period.

(Approved by the Office of Management and Budget under control number 3038–0022)

[44 FR 20651, Apr. 6, 1979, as amended at 46 FR 63036, Dec. 30, 1981; 60 FR 49336, Sept. 25, 1995]

§ 170.12 Delegation of authority to Director of the Division of Clearing and Intermediary Oversight.

The Commission hereby delegates, until the Commission orders otherwise,

Commodity Futures Trading Commission

§ 171.1

to the Director of the Division of Clearing and Intermediary Oversight the authority to take any of the actions enumerated in §§170.11 (b) and (c). Notwithstanding the provisions of this section, if the Director believes it appropriate, he may submit the matter to the Commission for its consideration.

[44 FR 20651, Apr. 6, 1979, as amended at 67 FR 62353, Oct. 7, 2002]

Subpart C—Membership in a Registered Futures Association

§ 170.15 Futures commission merchants.

(a) Except as provided in paragraph (b) of this section, each person registered as a futures commission merchant must become and remain a member of at least one futures association that is registered under section 17 of the Act and that provides for the membership therein of such futures commission merchant, unless no such futures association is so registered.

(b) The requirements of paragraph (a) of this section shall not apply to a futures commission merchant registered in accordance with §3.10(a)(3) of this chapter.

[66 FR 43083, Aug. 17, 2001, as amended at 72 FR 2615, Jan. 22, 2007]

PART 171—RULES RELATING TO REVIEW OF NATIONAL FUTURES ASSOCIATION DECISIONS IN DISCIPLINARY, MEMBERSHIP DENIAL, REGISTRATION AND MEMBER RESPONSIBILITY ACTIONS

Subpart A—General Provisions

Sec.

- 171.1 Scope of rules.
- 171.2 Definitions.
- 171.3 Business address; hours.
- 171.4 Computation of time.
- 171.5 Extension of time.
- 171.6 Ex parte communications.
- 171.7 [Reserved]
- 171.8 Filing with the Proceedings Clerk.
- 171.9 Service.
- 171.10 Motions.
- 171.11 Sanctions.
- 171.12 Settlement.
- 171.13 Practice before the Commission.

171.14 Waiver of rules.

Subpart B—Notice and Effective Date of Final Decisions in Disciplinary, Membership Denial and Registration Actions

- 171.20 [Reserved]
- 171.21 Notice of final decision.
- 171.22 Effective date of final decisions in disciplinary, membership denial and registration actions.
- 171.23 Notice of appeal.
- 171.24 Submission of the record.
- 171.25 Appeal brief.
- 171.26 Answering brief.
- 171.27 Limited participation by interested persons.
- 171.28 Participation by Commission staff.

Subpart C—Commission Review of Final Decisions in Disciplinary, Membership Denial and Registration Actions

- 171.30 Scope of review.
- 171.31 Commission review in the absence of an appeal.
- 171.32 Oral argument.
- 171.33 Final decision by the Commission.
- 171.34 Standards of review.

Subpart D—Commission Review of Decisions by the National Futures Association In Member Responsibility Actions

- 171.40 Notice of the commencement of a member responsibility action.
- 171.41 Petition for a stay of effective date of a member responsibility action pending a hearing by the National Futures Association.
- 171.42 Notice of a final decision of the National Futures Association in a member responsibility action.
- 171.43 Petition for a stay of the effective date of a final decision of the National Futures Association in a member responsibility action.
- 171.44 Notice of appeal.
- 171.45 General procedures.
- 171.46 Standards of review.

Subpart E—Delegation of Functions

171.50 Delegation to the General Counsel.

AUTHORITY: 7 U.S.C. 4a, 12a and 21, unless otherwise noted.

SOURCE: 55 FR 41068, Oct. 9, 1990, unless otherwise noted.

Subpart A—General Provisions

§ 171.1 Scope of rules.

(a) *Matters included.* Unless specifically excluded by subsection (b), this